REMARKS / ARGUMENTS

Introduction

The present Amendment is in response to the Examiner's Office Action mailed March 25, 2005. Claims 1-27 have been withdrawn. Claims 28, 30-31, and 33-35 are amended. Claims 1-35 are therefore pending.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Election/Restrictions

Applicant acknowledge the election without traverse of invention III, claims 28-35.

Rejections Under 35 U.S.C. § 102

The Office Action rejected claims 28-35 under 35 U.S.C. § 102(e)[1] as being anticipated by U.S. Patent No. 6,571,191 (*York*). Anticipation requires that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The following discussion illustrates *York* does not satisfy the requirements of *Verdegaal* with respect to claims 28-35. In particular, *York* does not teach each and every element of claims 28-35 as set forth in claims 28-35.

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[1] Because *York* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *York* is in fact prior art to the claimed invention but reserve the right to swear behind *York* if necessary to remove it as a reference.

Claim 28 is directed to a method of generating calibration data and subsequently detecting and correcting calibration errors within a distributed network. In claim 28, a testing or calibration procedures is performed on components at a plurality of calibrating devices. The calibration data generated by the testing or calibration procedure at each calibrating device is stored at the respective calibrating device. Then, the calibration data received from all of the calibrating devices is stored in a database. Errors in the calibration data are then identified and operators are informed of the errors.

Claim 28 is not taught or suggested by *York*. For example, claim 1 requires that each calibration device generate calibration data through a testing or calibration procedure and that the generated calibration data be stored at the calibration device. The recalibration tool 15 illustrated in Figure 1 of *York*, in contrast, is "a hand held apparatus that can transmit and receive information to and from the engine control module 17." *See* col. 4, lines 57-60. Therefore, *York* does not teach or suggest that the recalibration tool 15 can store any of the calibration data from the engine control module 17. Further, the recalibration tool taught by *York* does not perform any testing or calibration procedures on the engine control module 17. As stated above, *York* teaches that the recalibration tool can be used to transmit and receive information from the ECM above. Claim 28, in contrast, requires an act of performing a testing or calibration procedure on a plurality of components such that calibration data is generated by the testing or calibration procedure performed at each of the calibrating devices.

The Office Action further cites Figure 6 of *York* as teaching the invention. Figure 6 illustrates retrieving info from the ECM (*see* fig 6, 82) but does not teach or suggest storing, at each calibration device, the generated calibration data. Further, Figure 6 of *York* does not teach or suggest performing testing or calibration procedure as required by claim 28. Figure 6 only teaches retrieving existing data that was accumulated from various engine sensors, as well as programs and associated for controlling the function, and therefore the calibration, of the engine. *See* col. 4, lines 60-65. In other words, claim 28 requires performing a testing or calibration procedure such that calibration data is generated, but Figure 6 only teaches retrieving information from the ECM 17 that was generated by various engine sensors, or from programs that control, for example, the

intake of fuel and air, the combustion timing, and other performance aspects. *See* col. 4, lines 31-33.

Claim 28 further requires receiving calibration data from each of the plurality of calibrating devices. *York* does not teach this aspect of a distributed system where multiple calibrating devices are performing testing or calibration procedures on a plurality of components. In *York*, it is the fleet manager tool 12 that typically includes software that automates the download of trip information and that uploads the recalibration information to the ECM 17. *See* col. 5, lines 52-54.

Assuming, *arguendo*, that the database 13 stores calibration data for the truck T, there is no discussion of another database (such as the database required by claim 28) that can be used to store calibration data from additional trucks. In Figure 1, the engine MFGR computer 10 is used to provide calibrations established by the manufacturer (*see* col. 5, lines 29-31), but is not equipped to analyze the data retrieved from the memory 18 of multiple trucks. As a result, *York* does not teach or suggest the ability to receive calibration data from the plurality of calibration devices and to store the calibration received from the plurality of calibration devices in a database.

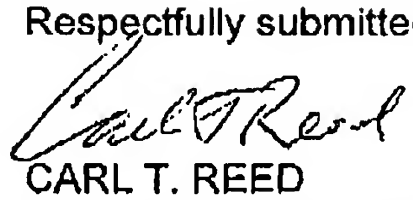
For at least these reasons, claim 28 is not taught or suggested by *York* and is believed to be in condition for allowance. Similarly, independent claim 35 also overcomes the art for at least the same reasons. The dependent claims 29-34 also overcome *York* for at least the same reasons.

Conclusion

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 25th day of August 2005.

Respectfully submitted,



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